This is generally the rule although the corporation has complied with all state statutes,[9] some states, however, taking a different view.[10] The California courts have not determined as yet whether our statute, which also provides for attachments against non-residents, permits an attachment of the property of a foreign corporation,[11] but in view of the general rule on the subject, it probably does. *C. W. S.*

BANK DEPOSITS: JOINT OWNERSHIP WITH RIGHT OF SURVIVORSHIP: GIFTS.—The cases of *Kennedy* v. *Kennedy*[1] and *Boyle* v. *Dinsdale*[2] are examples of the fecundity of the subject of the disposition of deposits in savings banks as a source of litigation. In the former case there was a written contract of deposit by which it was provided that the account was to be joint with a right of survivorship; in the latter there was a deposit in trust in the names of the donees, subject to the right of the donor to take the interest during his life. In both cases the survivors were held to be entitled to the deposits.

The most commonly recurring situations presented to the courts in this sort of cases may be classified as joint deposits, gifts, and deposits in trust.

In the first situation, where there is merely a deposit jointly in the names of the donor and donee, it is clear that the transaction cannot be upheld as a gift either *inter vivos* or *mortis causa* because the donor has not parted with control over the subject matter,[3] although, in California at least, such a transaction will be supported as a trust where there are acts or declarations of the depositor showing an intention to create a trust.[4] The difficulty in such a situation is that, in the absence of any written instrument clearly disclosing the donor's intention in those respects, such intention must be proved entirely by parol.[5] If there is a written instrument executed by the parties declaring their rights or interests respecting the deposit, or the terms under which it is made and is to be held by the bank, little difficulty will be experienced, even if the depositor retains possession of the deposit book.[6]

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[9] Voss v. Evans Marble Co., supra, note 8; Albright v. United Clay Production Co., supra note 8.

[10] Stonega Coke & Coal Co. v. So. Steel Co. (1910), 123 Tenn. 428, 131 S. W. 988, 31 L. R. A. (N. S.) 278.

[11] Cal. Code Civ. Proc. § 537.

[1] (Feb. 11, 1915), 49 Cal. Dec. 167, 146 Pac. 647.

[2] (Utah, Aug. 20, 1914), 143 Pac. 136.

[3] Robinson v. Mutual Savings Bank (1908), 7 Cal. App. 642, 95 Pac. 533.

[4] Drinkhouse v. German S. & L. Soc. (1911), 17 Cal. App. 162, 118 Pac. 953; Booth v. Oakland Bank of Savings (1898), 122 Cal. 19, 54 Pac. 370.

[5] Denigan v. Hibernia S. & L. Soc. (1899), 127 Cal. 137, 59 Pac. 389.

[6] Kennedy v. Kennedy, note 1, supra; Farrelly v. Emigrant etc. Sav. Bank (1904), 92 App. Div. 529, 87 N. Y. Supp. 54, affirmed in 179 N. Y. 594, 72 N. E. 1141.

One of the incidents of the joint tenancy thus created is that, upon the death of one of the joint tenants, the survivor becomes owner of the entirety by survivorship and by virtue of the original grant creating the tenancy.[7] The deposit thus is made subject to withdrawal by either party, although, as a practical matter, the depositor is able to retain effective control over it by merely keeping the bank book in his possession.

In the second case, it is well settled that the mere fact of a deposit in the name of a third party, without delivery of the pass book, or other constructive delivery, will not constitute a gift of the chose in action.[8] To establish the disposition as a valid gift there must be a delivery to the donee, either actual or constructive, as by giving over the deposit book.[9] Where the subject of the purported gift remains or is immediately replaced under the control of the donor, the gift is not complete; in the words of Mr. Chief Justice Beasley, the donor has not completely stripped himself of his dominion over the thing given.[10]

In the third situation, there must be a delivery of the subject matter of the trust to some one for the donee, so as to divest the title and possession of the donor,[11] or there must be acts which will constitute either the donor or a third party, usually the bank, a trustee for the beneficiary.[12] If the circumstances attending the transaction are such as to effect a perfected trust, there is no question that the beneficial title to the funds will pass to the donee. In case the depositor's acts are equivocal, the rule seems to be to seek his intention and to allow such intention to govern.[13] No particular form of words is required to create a trust,[14] but the case of Kennedy v. Kennedy points out the desirability of having the intention clearly expressed, in writing, if possible. Once the trust is established, the circumstance that the donor retains the right to withdraw the deposit does not affect its validity. In this way the donor is able to

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[7] Estate of Harris (Mar. 31, 1915), 147 Pac. 967; this case does not determine whether or not a creditor would have a right to resort to the estate of a decedent in property held in joint tenancy by him and another person.

[8] Beaver v. Beaver (1893), 137 N. Y. 59, 32 N. E. 998, (reversing 62 Hun. 194, 16 N. Y. Supp. 476). See same case in 117 N. Y. 421, 22 N. E. 940; Meridian Trust & Safe Deposit Co. v. Miller (Conn., 1914), 90 Atl. 228.

[9] Camp's Appeal (1869), 36 Conn. 88, 4 Am. Rep. 39; see note in 22 Harv. Law Rev. 453.

[10] Schippers v. Kempkes (N. J., 1907), 67 Atl. 74; Cook v. Lum (1893), 55 N. J. L. 373, 26 Atl. 803.

[11] Smith v. Ossipe etc. Savings Bank (1887), 64 N. H. 228, 9 Atl. 792.

[12] Mabie v. Bailey (1884), 95 N. Y. 206.

[13] Carr v. Carr (1911) 15 Cal. App. 480, 115 Pac. 261.

[14] Ex parte Pye (1811), 18 Ves. Jun. 141. 34 Eng. Repr. 271; Booth v. Oakland Bank of Savings (1898), 122 Cal. 19, at p. 22, 54 Pac. 370.

retain a control over the trust that practically amounts to a power of revocation.[15] There is a division of authority on the question whether there can be a completed trust without some communication of knowledge of it to the beneficiary.[16] The California Code does not require that the beneficiary shall be informed of the trust, and under such circumstances the trust is good so long as it is not rescinded.[17]

The difficulty in these cases lies not in the situations where the depositor has made his intention clear by unequivocal acts, but where he has failed to take the final step to give the joint owner control, or to divest himself of his dominion over the property. The average property owner, either from a lack of confidence in the beneficiary or from reluctance to part with control over his property, lacks the decision to complete the transaction and to make an unequivocal disposition of the deposit.

A. A.

BANKRUPTCY: REVIVAL OF CLAIM BARRED BY STATUTE OF LIMITATIONS.—A, being indebted to his sister, B, in 1906, executed his promissory note in her favor, due one day after its date. In 1914, the claim having been long since barred under the California statute,[1] and A having become insolvent, he addressed a letter to B acknowledging the debt. The letter was written within four months of the filing of a voluntary petition in bankruptcy and with the purpose of renewing the note, so that it might participate in the dividends in bankruptcy; and at the time it was written, B had reasonable cause to believe A insolvent. Under these circumstances, it has recently been held in the case of *In re Blankenship*[2] by the District Court for the Southern District of California that B's claim is provable.

Although the decision is in accord with that of another District Court in a similar case,[3] it would seem to be questionable on principle.

Neither the act of 1867 nor that of 1898 contains any express provision as to outlawed claims. Under the former, there was some conflict of authority as to whether a claim barred by the statute of limitations might be asserted in bankruptcy, but most of the decisions denied such right.[4] So under the present act, it is

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[15] Booth v. Oakland Bank of Savings (1898), 122 Cal. 19, at p. 26, 54 Pac. 370.

[16] Cunningham v. Davenport (1895), 147 N. Y. 43, 41 N. E. 412, 32 L. R. A. 373, note.

[17] Booth v. Oakland Bank of Savings (1898), 122 Cal. 19, at p. 25, 54 Pac. 370; Cal. Civ. Code, § 2251.

[1] Cal. Code Civ. Proc. § 337.

[2] (Jan. 25, 1915), 220 Fed. 395.

[3] In re Banks (1913), 207 Fed. 662.

[4] The leading case under the act of 1867 is In re Kingsley (1868) Fed. Cas. No. 7,819, decided by Judge Lowell adversely to the outlawed claim. In accord are, In re Hardin (1868), Fed. Cas. 6,048; In